

Hearing:
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Paper No. 15
HRW

THIS DISPOSITION IS NOT CITABLE AS PRECEDENT
OF THE TTAB JULY 25, 00

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Sharp Kabushiki Kaisha
a/t/a Sharp Corporation

Serial No. 75/385,721

Robert W. Adams of Nixon & Vanderhye P.C.
for applicant.

Jessie W. Billings, Trademark Examining Attorney, Law
Office 103 (Michael Szoke, Managing Attorney).

Before Quinn, Wendel and McLeod, Administrative Trademark
Judges.

Opinion by Wendel, Administrative Trademark Judge:

Sharp Kabushiki Kaisha a/t/a Sharp Corporation has
filed an application to register the mark REMOTE PAGER for
"video cassette recorder and its remote controller,
components thereof, and automatic locator button sold as a

feature of a VCR and its remote controller unit sold as a unit."¹

Registration has been finally refused on the ground that the mark is merely descriptive under Section 2(e)(1) of the Trademark Act. Applicant and the Examining Attorney have filed briefs and both participated in an oral hearing.

The Examining Attorney takes the position that REMOTE PAGER is merely descriptive of the pager function of the remote controller unit of applicant's goods. She argues that the locator button allows a user to "page" the remote controller by hitting the button which causes the remote controller to emit a beeping noise so that it can be found. Relying upon dictionary definitions in which a "pager" is cross-referenced to the definition of a "beeper,"² she maintains that REMOTE PAGER merely describes this "beeper" or "pager" feature of the remote controller.

Applicant argues that REMOTE PAGER does not describe applicant's goods because the goods do not act as a "pager"

¹ Serial No. 75/385,721, filed November 6, 1997, based on an allegation of a bona fide intent to use the mark in commerce.

² The definitions from *The Illustrated Dictionary of Electronics* (6th Ed. 1994) relied upon are:

pager 1. A public-address system used for summoning purposes. 2. See BEEPER, 2.

beeper 1. Any device for producing a beep. 2. A pocket- or hand-carried transceiver, especially one for maintaining two-way contact with personnel who are away from their base.

as primarily defined, namely, as a "public-address system used for summoning purposes." Applicant asserts that although the definition of "pager" relied upon by the Examining Attorney includes a reference to "beeper," applicant's mark is not REMOTE BEEPER and moreover, even if considered, the "secondary" definition given for "beeper" also has no bearing on applicant's goods. Applicant insists that, in general, for a term to be "primarily, merely descriptive," the Examining Attorney must rely upon a primary definition; that to rely upon a secondary definition of a term which is not even part of the mark, namely "beeper," to determine the nature of the goods requires imagination and thought. Finally, applicant argues that the refusal should be reversed because the Examining Attorney has failed to introduce any evidence that the term "remote pager" has been used in connection with goods similar to applicant's VCR and remote controller combination to support a finding that the term is merely descriptive.

A term or phrase is merely descriptive within the meaning of Section 2(e)(1) if it immediately conveys information about a characteristic, feature or function of the goods with which it is being used. See *In re Abcor Development Corp.*, 588 F.2d 811, 200 USPQ 215 (CCPA 1978).

It is not necessary that a term or phrase describe all the characteristics or features of the goods in order for it to be considered merely descriptive; it is sufficient if the term describes one significant attribute of the goods. See *In re Pennzoil Products Co.*, 20 USPQ2d 1753 (TTAB 1991).

As a starting point, we note that the test under Section 2(e)(1) is whether the term is merely descriptive, not primarily, merely descriptive, as argued by applicant. Consequently, we see no reason why a second listed definition for a term should not be considered in determining the descriptiveness of a term when used with certain goods. There is no requirement that the definition be the primary, or first listed, one. If the term has a recognized meaning, the fact that it may be second in prevalence of use does not preclude public interpretation of the term in this manner when it is readily apparent that the second meaning is applicable under the circumstances.

Accordingly, we feel free to consider all dictionary definitions for the term "pager." In addition, we find it appropriate to take judicial notice of the updated dictionary definitions of "pager" and "beeper" found in *The Illustrated Dictionary of Electronics* (7th Ed. 1997). See *Marcal Paper Mills, Inc. v. American Can Co.*, 212 USPQ 852 (TTAB 1981). These definitions are:

pager 1. A public-address system used for summoning purposes. 2. See BEEPER, 2.

beeper 1. A pocket- or hand-carried transceiver- especially one for maintaining two-way contact with personnel who are away from their base. 2. An acoustic transducer that produces a beep in response to an input signal.

From these definitions, it is clear that the term "pager" may be considered synonymous with "beeper" when the term "pager" is being used in the sense of an "acoustic transducer that produces a beep in response to an input signal." Applicant's remote controller produces a beep when the automatic locator button is pushed, or at least the identification of goods is broad enough to cover a VCR-remote controller combination which functions in this manner. Thus, applicant's remote controller can aptly be described as functioning as either a "beeper" or as a "pager", the terms being synonymous when used with this connotation.³ No multi-reasoning or imagination is required on the part of the purchasing public upon encountering the mark REMOTE PAGER to understand that applicant's goods feature a remote-controller with a 'pager" feature.

Applicant's argument that the refusal should be reversed because of a lack of evidence of use by others of the term "remote pager" in connection with VCR's and related accessories is unpersuasive. Even if applicant is the only user of this designation in connection with goods of this type, this does not alter the descriptive significance of the term.⁴ See *In re Pharmaceutical Innovations, Inc.*, 217 USPQ 365 (TTAB 1983) and the cases cited therein.

Accordingly, we find REMOTE PAGER merely descriptive of the video cassette recorder and remote controller unit having an automatic locator button feature with which applicant intends to use the mark.

Decision: The refusal to register under Section 2(e)(1) is affirmed.

T. J. Quinn

H. R. Wendel

³ We note that applicant's counsel acknowledged at the oral hearing that REMOTE BEEPER would be descriptive of applicant's remote controller.

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L. K. McLeod
Administrative Trademark Judges,
Trademark Trial and Appeal Board

⁴ The Nexis evidence made of record by the Examining Attorney does show the use by others of a beeper on the remote control as a means of locating the control.

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